

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-742

October 6, 1998

STERLING INTERNATIONAL FUNDING, INC.,
D/B/A RECONEX
Petition for Finding of Public
Convenience and Necessity to
Provide Service as a Local
Exchange Telephone Utility

ORDER GRANTING AUTHORITY
TO PROVIDE LOCAL SERVICE
AND APPROVING SCHEDULE
OF RATES AND TERMS
AND CONDITIONS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

In this Order, the Commission grants Sterling International Funding, Inc., d/b/a Reconex (Reconex or the Company) the authority to provide competitive local exchange service throughout the State of Maine, and approves the Company's Terms and Conditions and Rate Schedules. We also exempt Reconex from the requirements of Chapter 210, *Uniform System of Accounts*, and of 35-A M.R.S.A. §§ 707 and 708, subject to the conditions described below.

I. APPROVAL OF APPLICATION TO SERVE

On September 25, 1997, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Reconex filed a petition with the Commission requesting authority to provide local telephone service in Maine. Reconex plans to provide local dial tone service only, on a prepaid basis.

35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to serve where another utility is already authorized or is providing the same or similar service, before we grant approval under section 2102 for an additional public utility to provide service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal

requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

We find that granting Reconex the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

II. APPROVAL OF TERMS AND CONDITIONS AND RATE SCHEDULES

We allow the terms and conditions proposed by Reconex, as refiled on May 11, 1998 pursuant to discussions with the staff, to go into effect.

Reconex did not use the Commission's expedited process for approval, which includes standard terms and conditions that comply with the Commission's Rules. We have reviewed the Company's petition, Terms and Conditions, and Rate Schedules, and they appear to comply with Maine law and the Commission's Rules. Nevertheless, if there is any conflict between a provision in Reconex's terms and conditions and the Commission's Rules or a statute, the rule or statute will govern.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. We believe that the acceptability of Reconex's services and rates in the market place provides an adequate test of the reasonableness of the Company's rates. Accordingly, we allow the rates proposed by Reconex to go into effect.

III. NEED TO OBTAIN INTERCONNECTION AGREEMENT(S)

In order to provide local exchange service, a competitive local exchange carrier must, as a practical matter, obtain an interconnection agreement with the ILEC(s) providing service in any area where it intends to provide service. In the absence of such an agreement, it will not be possible for Reconex's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission.

If a competitive local exchange carrier (CLEC) makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent telephone companies are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service provisions of] section 254"

As a condition of providing local exchange service, Reconex must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission.

IV. WAIVERS; REPORTING REQUIREMENTS

As a condition of providing local exchange service, Reconex must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Reconex shall also comply with any applicable Commission Rules or orders that govern universal service, public safety and welfare, service quality and consumer rights.

Although Reconex has not requested a waiver from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting, or from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests, the Commission has the authority to grant such waiver on its own motion. Because Reconex's rates and operations are likely to be subject to market forces, we do not see any present need to subject the Company to those requirements. However,

Reconex must report its annual intrastate gross operating revenues and its annual intrastate minutes for use for the purpose of determining its regulatory assessment.¹ If Reconex resells service to other switched or switchless telephone service providers, the Company must maintain its records so that it may separately identify those sales.

In addition, Reconex shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business, as set forth in Ordering Paragraph No. 3. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity.

V. OTHER REQUIREMENTS

Reconex shall comply with all applicable rules of the Commission and statutes of the State of Maine.

VI. ORDERING PARAGRAPHS

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of Sterling International Funding, Inc., d/b/a Reconex to provide local exchange telephone service to all areas within the State of Maine;

2. Exempt Sterling International Funding, Inc., d/b/a Reconex from the requirements of Chapter 210 of the Commission's Rules, except that it must report the revenue and minutes of use information that is requested by the Commission, on or before April 1 of each year;

3. Exempt Sterling International Funding, Inc., d/b/a Reconex from the approval requirements of 35-A M.R.S.A. §§ 707 and 708, provided that Sterling International Funding, Inc., d/b/a Reconex shall notify the Commission of any reorganization,

¹ The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of Sterling International Funding, Inc., d/b/a Reconex or of any entity that owns more than 50% of Sterling International Funding, Inc., d/b/a Reconex. Sterling International Funding, Inc., d/b/a Reconex shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and change of its contact person. Sterling International Funding, Inc., d/b/a Reconex shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, Sterling International Funding, Inc., d/b/a Reconex shall amend its rate schedules and terms and conditions to reflect any change in identity; and

4. Direct that Sterling International Funding, Inc., d/b/a Reconex's proposed terms and conditions and rate schedules (Original Sheets 1 through 52), filed on May 11, 1998 and attached to this Order, shall be effective on the date of this Order.

Dated at Augusta, Maine, this 6th day of October, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
ABSTAINED: Diamond